IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SALES TAX REFERENCE No. 4 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
HON'BLE MR.JUSTICE M.C.PATEL

==========

COMMISSIONER OF SALES TAX - Applicant(s)

Versus

ALLIED RADIO ELECTRICALS - Respondent(s)

==========

Appearance :
MR HV CHHATRAPATI for Petitioner No(s).: 1.
MR HARSHAD J SHAH for Respondent No(s).: 1.
==========

CORAM :HON'BLE MR.JUSTICE B.J.SHETHNA
HON'BLE MR.JUSTICE M.C.PATEL

Date : 07/07/2005

ORAL JUDGMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

.

Two Revision Application Nos.1 & 2 of 1985, filed by the respondent M/s. Allied Radio Electricals – applicant before the Gujarat Sales Tax Tribunal, Ahmedabad (for short "Tribunal") were allowed by the learned Tribunal by its common Judgment and order dated 22.10.1986. However, there was only one Reference Application No.2 of 1988 preferred before the learned Tribunal at the instance of the State of Gujarat. Following question was raised by the learned Tribunal and referred to this Court for its opinion u/s.69 of the Act :

> "Whether on the facts and in the circumstances of the case Gujarat Sales Tax Tribunal is justified in the law in holding that sales of radios and

musical systems effected by the opponent to the Unit Canteen of E.M.E. School, Baroda are exempt from payment of tax under provisions of Section 49(1)(i) of the Gujarat Sales Tax Act, 1969, and so the opponent is not required to produce declaration in Form "C" in the light of the second proviso to sub-section (2) of Section 6 of the Central Act, 1956 ?"

Heard learned AGP Shri Gori for the State and Shri Bhatt for the respondent – assessee.

Having carefully gone through the impugned Judgment and order passed by the Tribunal, learned AGP Shri Gori was hardly in a position to persuade us to take different view in the matter.

Having carefully gone through the impugned Judgment and order passed by the learned Tribunal and the reasons assigned by it in its order while allowing the Revision Application we do not see any error and committed by the learned Tribunal and in our considered opinion the learned Tribunal was fully justified in holding that sales of Radios and musical system effected by the opponent to the Unit Canteen of E.M.E. School, Baroda were exempted from payment of tax under Section 49(1)(i) of the Gujarat Sales Tax Act, 169 and the opponent assessee was not required to produce declaration in form "C" in the light of the second proviso to section 6(2) of the Central Act, 1956.

In view of the above, the reference is answered in affirmative.

(B.J.SHETHNA, J.)

(M.C. PATEL, J.)

sas